

ESTTA Tracking number: **ESTTA713763**

Filing date: **12/09/2015**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	86185707
Applicant	Fuel Industries Inc.
Applied for Mark	BRODDCAST
Correspondence Address	CANDICE E KIM GREENBERG TRAURIG LLP 1840 CENTURY PARK E, SUITE 1900 LOS ANGELES, CA 90067-2101 UNITED STATES gtipmail@gtlaw.com, kimce@gtlaw.com, laipmail@gtlaw.com, joynerj@gtlaw.com
Submission	Applicant's Request for Board to Take Judicial Notice or Alternatively, Request to Suspend Appeal and Remand for Consideration of Additional Evidence
Attachments	Request for Judicial Notice or to Suspend and Remand.pdf(669986 bytes)
Filer's Name	Candice E. Kim
Filer's e-mail	gtipmail@gtlaw.com, kimce@gtlaw.com
Signature	/cek/
Date	12/09/2015

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In re U.S. Trademark Application)	
)	
Applicant: Fuel Industries, Inc.)	Examining Attorney: Raul Cordova
)	
Serial No.: 86/185,707)	Law Office: 114
)	
Filed: February 5, 2014)	Our Ref. No.: 136252.012100
)	
Mark: BRODDCAST)	

**APPLICANT’S REQUEST FOR BOARD TO TAKE JUDICIAL NOTICE, OR,
ALTERNATIVELY, REQUEST TO SUSPEND APPEAL AND REMAND FOR
CONSIDERATION OF ADDITIONAL EVIDENCE**

Candice E. Kim
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067
Phone: (310) 586-3867
Fax: (310) 586-0567
Email: gtipmail@gtlaw.com

TABLE OF CONTENTS

I.	Introduction.....	1
III.	Request for Trademark Trial and Appeal Board to Take Judicial Notice.....	3
IV.	Request for Suspension of Appeal and Remand to Examining Attorney for Consideration of Additional Evidence in the Alternative	3
V.	Any Doubt Should be Resolved in Applicant’s Favor.....	4
VI.	Conclusion	6

TABLE OF AUTHORITIES

	Page(s)
Federal and T.T.A.B. Cases	
<i>In re Atavio</i> , 25 U.S.P.Q.2d 1361 (T.T.A.B. 1992).....	4
<i>In re Bercut-Vandervoort & Co.</i> , 229 U.S.P.Q. 763 (T.T.A.B. 1986).....	4
<i>In re Big Wrangler Steak House, Inc.</i> , 230 U.S.P.Q. 634 (T.T.A.B. 1986).....	3
<i>In re Central Sprinkler Co.</i> , 49 U.S.P.Q.2d 1194 (T.T.A.B. 1998).....	4
<i>In re Chippendales USA, Inc.</i> , 622 F.3d 1346, 96 U.S.P.Q.2d 1681 (Fed. Cir. 2010).....	3
<i>In re Chung, Jeanne & KimCo.</i> , 226 U.S.P.Q. 938 (T.T.A.B. 1985).....	4
<i>In re Gourmet Bakers, Inc.</i> , 173 U.S.P.Q. 565 (T.T.A.B. 1972).....	5
<i>In re Grand Metropolitan Foodservice Inc.</i> , 30 U.S.P.Q.2d 1974 (T.T.A.B. 1994).....	5
<i>Group One, Ltd. v. Hallmark Cards</i> , 407 F.3d 1297 (Fed. Cir. 2005).....	3
<i>In re Hester Indus., Inc.</i> , 230 U.S.P.Q. 797 (T.T.A.B. 1986).....	5
<i>In re Luxuria s.r.o.</i> , 100 U.S.P.Q.2d 1146 (T.T.A.B. 2011).....	3
<i>In re Mobile Ray, Inc.</i> , 224 U.S.P.Q. 247 (T.T.A.B. 1984).....	5
<i>In re TMS Corp. of the Americas</i> , 200 U.S.P.Q. 57 (T.T.A.B. 1978).....	4
<i>In re Zanova Inc.</i> , 59 U.S.P.Q.2d 1300 (T.T.A.B. 2001).....	4
Other Authorities	
37 CFR § 2.142(d)	1, 3, 4, 5
Fed. R. Evid. 201(b)(2)	3
Fed. R. Evid. 201(c).....	3
J. Thomas McCarthy, <i>McCarthy on Trademarks and Unfair Competition</i> , § 11:51 (4th Ed. 2011).....	5
TMEP § 1207.02.....	4

I. Introduction

Applicant Fuel Industries, Inc. (“Applicant”) respectfully requests that the Board exercise its discretion to take Judicial Notice of the Notice of Allowance, issued on October 20, 2015, *without a disclaimer or a 2(f) declaration on the Principal Register* for Applicant’s Application Ser. No. 86/388,876 for the mark BRODDCAST and Design (the “Notice of Allowance”), covering the identical goods listed in Application Ser. No. 86/185,707 for BRODDCAST in standard characters (the “Application”), the subject of this *ex parte* proceeding. Alternatively, if the Board decides not to take Judicial Notice of the Notice of Allowance, Applicant respectfully requests that this Appeal be suspended and the Application be remanded to the Examining Attorney for consideration of the additional evidence, *i.e.*, the Notice of Allowance, pursuant to 37 CFR § 2.142(d).

II. Background

On February 5, 2014, Applicant filed its Application Ser. No. 86/185,707 to register the mark BRODDCAST in standard characters (the “Standard Character Mark”), covering “multimedia software for digital content creation of entertainment videos using electronic media or information via the Internet; multimedia software for digital video recording, editing and playback of videos; multimedia software for digital recording, editing and playback of entertainment videos; computer software applications for use in electronic transmission of videos, text, images, and other visual works for use with computers, computer peripherals, wireless devices, and cellular and mobile telephones; downloadable software for digital recording, editing and playback of entertainment videos” in Class 9 (the “Applicant’s Goods”).¹ On May 20, 2014, a First Office Action issued refusing the Standard Character Mark under Section 2(e)(1).

¹ In an effort to assuage the Examiner’s concerns, Applicant later voluntarily amended its identification of goods to delete certain wording that the Examiner may have found objectionable to read as follows:

multimedia software for digital content creation of entertainment videos using electronic media;
multimedia software for digital video recording, editing and playback of videos; multimedia
software for digital recording, editing and playback of entertainment videos; downloadable
software for digital recording, editing and playback of entertainment videos

On September 8, 2014, Applicant filed Application Ser. No. 86/388,876 to register its BRODDCAST and Design mark (the “Design Mark”) covering the Applicant’s Goods. The Design Mark is shown immediately below.



On November 20, 2014, Applicant filed its Response to First Office Action concerning the Standard Character Mark, and on December 19, 2014, the unconvinced Examiner issued a Final Office Action for the same.

On December 22, 2014, a different Examining Attorney issued a First Office Action for the Design Mark, requiring that the wording “broadcast” be disclaimed, on June 17, 2015, Applicant filed its Response to First Office Action, which was similar in content and substance to the response it had filed for the Standard Character Mark, namely, that a disclaimer should not be required because the wording “broadcast” is not merely descriptive of Applicant’s Goods.

On June 19, 2015, Applicant filed its Request for Reconsideration along with its Notice of Appeal concerning the Standard Character Mark.

On August 5, 2015, a Notice of Publication issued for the Design Mark allowing the Design Mark to proceed with no disclaimer or 2(f) declaration on the Principal Register, and, on October 20, 2015, a Notice of Allowance for the Design Mark issued.

On September 25, 2015, having been denied reconsideration, Applicant filed its Appeal Brief. In Applicant’s Appeal Brief, Applicant introduced evidence of the publication of Applicant’s Design Mark. Because of the timing of the issuance of the Notice of Publication (August 5th) and Notice of Allowance (October 20th) for Applicant’s Design Mark, Applicant was unable to introduce such evidence in this matter earlier as it was unavailable at the time it filed its Request for Reconsideration and Notice of Appeal (June 19th).

On November 24, 2015, the Examining Attorney filed his Appeal Brief and objected to the submission of the Notice of Publication and Notice of Allowance for Applicant's application for its Design Mark, on grounds that a copy of the application was not made of record prior to the appeal.

III. Request for Trademark Trial and Appeal Board to Take Judicial Notice

Applicant respectfully requests that the Board exercise its discretion to take judicial notice of the Notice of Allowance. *See, e.g., In re Chippendales USA, Inc.*, 622 F.3d 1346, 96 U.S.P.Q.2d 1681, 1688 (Fed. Cir. 2010) ("Moreover, this court may take judicial notice of the existence of the Playboy bunny trademarks under Fed. R. Evid. 201(c), as we determine that the registration documents by the PTO are 'capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.'"); *see also* Fed. R. Evid. 201(b)(2); *Group One, Ltd. v. Hallmark Cards*, 407 F.3d 1297, 1306 (Fed. Cir. 2005) (upholding district court's taking of judicial notice of the fact of a patent's reinstatement).

As the Notice of Allowance issued for Applicant's Design Mark is "capable of accurate and ready determination by a source," namely, the PTO, whose accuracy cannot reasonably be questioned, Applicant respectfully requests this Board to exercise its discretion and take judicial notice of the Notice of Allowance for administrative efficiency sake.

IV. Request for Suspension of Appeal and Remand to Examining Attorney for Consideration of Additional Evidence in the Alternative

If the Board decides not to exercise its discretion to take judicial notice of the Notice of Allowance issued for Applicant's Design Mark, Applicant requests, in the alternative, that this Appeal be suspended and the instant Application be remanded to the Examiner for consideration of the additional evidence, pursuant to 37 CFR § 2.142(d).

An applicant may request to suspend an appeal and remand for additional evidence prior to the rendering of the Board's final decision on the appeal. *See*, 37 CFR § 2.142(d). The request must include a showing of good cause therefor and be accompanied by the additional evidence sought to be introduced. *See In re Luxuria s.r.o.*, 100 U.S.P.Q.2d 1146, 1147 (T.T.A.B. 2011); *In re Big Wrangler Steak House*,

Inc., 230 U.S.P.Q. 634, 635 n.4 (T.T.A.B. 1986); *In re Bercut-Vandervoort & Co.*, 229 U.S.P.Q. 763, 764 (T.T.A.B. 1986); *In re Chung, Jeanne & KimCo.*, 226 U.S.P.Q. 938, 940 n.6 (T.T.A.B. 1985).

Applicant has shown the requisite good cause because the evidence it wishes to introduce was not available at the time the Request for Reconsideration and Notice of Appeal were due. *See* TMBP §1207.02 for examples of circumstances that have been found to constitute good cause for a remand for additional evidence, including “the evidence was not previously available.” *See also, In re Zanova Inc.*, 59 U.S.P.Q.2d 1300, 1302 (T.T.A.B. 2001); *In re Central Sprinkler Co.*, 49 U.S.P.Q.2d 1194 n.2 (T.T.A.B. 1998). As explained above, the Notice of Publication and the Notice of Allowance for Applicant’s Design Mark were issued *after* the deadline for Applicant to file its Request for Reconsideration and Notice of Appeal and, therefore, constitute evidence that was not previously available, establishing good cause for a remand for additional evidence.

Applicant sought to introduce this evidence as soon as it could in Applicant’s Brief, however, the Examiner objects to the evidence on the basis that it was not made of record prior to this appeal. Attached as Exhibit A is a copy of Applicant’s Application Ser. No. 86/388,876 for the Design Mark, Exhibit B is a copy of the Notice of Publication, Exhibit C is a copy of the Notice of Allowance, and Exhibit D is a copy of the TSDR status report for Ser. No. 86/388,876.

Applicant respectfully requests that the instant Appeal be suspended and this Application be remanded to the Examiner for consideration of the additional evidence submitted herewith and made of record, namely, Exhibits A-D, pursuant to TMBP § 1207.02, 37 CFR § 2.142(d).

V. Additional Evidence is Relevant to Show Any Doubt Should be Resolved in Applicant’s Favor

The additional evidence consisting of the Notice of Allowance for the Design Mark is relevant because it shows either that the Examiner should have published the Standard Character Mark for opposition or that, at a minimum, there is doubt as to whether the Standard Character Mark is suggestive or merely descriptive.

Applicant's BRODDCAST Design Mark for the *identical goods* listed in the present Application was approved by a different Examiner without requiring a disclaimer or a 2(f) declaration, demonstrating that there must be at least *some* doubt as to whether or not Applicant's Standard Character Mark is merely descriptive of Applicant's goods. There is a "thin line of demarcation between a suggestive mark and a merely descriptive one, with the determination of which category a mark falls into frequently being a difficult matter involving a good measure of subjective judgment." *See, e.g., In re Atavio*, 25 U.S.P.Q.2d 1361 (T.T.A.B. 1992); *In re TMS Corp. of the Americas*, 200 U.S.P.Q. 57, 58 (T.T.A.B. 1978).

Because the "line between merely descriptive and only suggestive terms is 'so nebulous,' the Board takes the position *that doubt is resolved in favor of the applicant* on the assumption that competitors have the opportunity to oppose the registration once published and to present evidence that is usually not present in *ex parte* examination." *See*, J. Thomas McCarthy, *McCarthy on Trademarks and Unfair Competition*, § 11:51 (4th Ed. 2011)(emphasis added); *see also, In re Mobile Ray, Inc.*, 224 U.S.P.Q. 247, 248 (T.T.A.B. 1984)("[W]e believe this record established sufficient doubt concerning the descriptiveness of applicant's mark that the mark should be published for opposition."); *In re Hester Indus., Inc.*, 230 U.S.P.Q. 797, 798 (T.T.A.B. 1986); *In re Grand Metropolitan Foodservice Inc.*, 30 U.S.P.Q.2d 1974 (T.T.A.B. 1994); *In re Gourmet Bakers, Inc.*, 173 U.S.P.Q. 565 (T.T.A.B. 1972).

Therefore, Applicant would be prejudiced if the additional evidence is not considered.

* * * * *

VI. Conclusion

Applicant respectfully requests that the Board exercise its discretion to take Judicial Notice of the Notice of Allowance for Applicant's Application Ser. No. 86/388,876 for the mark BRODDCAST and Design mark, or, in the alternative, Applicant respectfully requests that this Appeal be suspended and the Application be remanded to the Examining Attorney for consideration of the additional evidence, *i.e.*, the Notice of Allowance, pursuant to 37 CFR § 2.142(d).

Respectfully submitted,

Date: December 9, 2015



Candice E. Kim
GREENBERG TRAURIG, LLP
1840 Century Park East, Suite 1900
Los Angeles, CA 90067
Phone: (310) 586-3867
Fax: (310) 586-0567
Email: GTIPMAIL@gtlaw.com

Attorneys for Applicant

EXHIBIT A

Trademark/Service Mark Application, Principal Register

Serial Number: 86388876

Filing Date: 09/08/2014

The table below presents the data as entered.

Input Field	Entered
SERIAL NUMBER	86388876
MARK INFORMATION	
*MARK	\\TICRS\EXPORT16\IMAGEOUT 16\863\888\86388876\xml1\APP0002.JPG
SPECIAL FORM	YES
USPTO-GENERATED IMAGE	NO
LITERAL ELEMENT	BRODDCAST
COLOR MARK	NO
*DESCRIPTION OF THE MARK (and Color Location, if applicable)	The mark consists of a stylized "broddcast" with each letter surrounded by different border fabrics.
PIXEL COUNT ACCEPTABLE	NO
PIXEL COUNT	373 x 135
REGISTER	Principal
APPLICANT INFORMATION	
*OWNER OF MARK	Fuel Industries Inc.
*STREET	100-7 Hinton Avenue
*CITY	North Ottawa, Ontario
*COUNTRY	Canada
*ZIP/POSTAL CODE	K1Y4P1

(Required for U.S. applicants only)	
LEGAL ENTITY INFORMATION	
TYPE	corporation
STATE/COUNTRY OF INCORPORATION	Canada
GOODS AND/OR SERVICES AND BASIS INFORMATION	
INTERNATIONAL CLASS	009
* IDENTIFICATION	Multimedia software for digital content creation of entertainment videos using electronic media or information via the Internet; multimedia software for digital video recording, editing and playback of videos; multimedia software for digital recording, editing and playback of entertainment videos; computer software applications for use in electronic transmission of videos, text, images, and other visual works for use with computers, computer peripherals, wireless devices, and cellular and mobile telephones; downloadable software for digital recording, editing and playback of entertainment videos
FILING BASIS	SECTION 1(b)
ATTORNEY INFORMATION	
NAME	Jeffrey K. Joyner
ATTORNEY DOCKET NUMBER	136252-012100
FIRM NAME	Greenberg Traurig, LLP
STREET	1840 Century Park East, Suite 1900
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	90067
PHONE	(310) 586-7700
FAX	(310) 586-0564
EMAIL ADDRESS	gtipmail@gtlaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
DOMESTIC REPRESENTATIVE INFORMATION	

NAME	Jeffrey K. Joyner
FIRM NAME	Greenberg Traurig, LLP
STREET	1840 Century Park East, Suite 1900
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP CODE	90067
PHONE	(310) 586-7700
FAX	(310) 586-0564
EMAIL ADDRESS	gtipmail@gtlaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
CORRESPONDENCE INFORMATION	
NAME	Jeffrey K. Joyner
FIRM NAME	Greenberg Traurig, LLP
STREET	1840 Century Park East, Suite 1900
CITY	Los Angeles
STATE	California
COUNTRY	United States
ZIP/POSTAL CODE	90067
PHONE	(310) 586-7700
FAX	(310) 586-0564
EMAIL ADDRESS	gtipmail@gtlaw.com;linkerg@gtlaw.com
AUTHORIZED TO COMMUNICATE VIA EMAIL	Yes
FEE INFORMATION	
NUMBER OF CLASSES	1
FEE PER CLASS	325
*TOTAL FEE DUE	325
*TOTAL FEE	325

PAID	
SIGNATURE INFORMATION	
ORIGINAL PDF FILE	hw_387523106-220302130_._decl.pdf
CONVERTED PDF FILE(S) (1 page)	\\TICRS\EXPORT16\IMAGEOUT16\863\888\86388876\xml1\APP0003.JPG
SIGNATORY'S NAME	Gerhard Runken
SIGNATORY'S POSITION	VP Property Development

Trademark/Service Mark Application, Principal Register

Serial Number: 86388876

Filing Date: 09/08/2014

To the Commissioner for Trademarks:

MARK: BRODDCAST (stylized and/or with design, see [mark](#))

The literal element of the mark consists of BRODDCAST.

The applicant is not claiming color as a feature of the mark. The mark consists of a stylized "broddcast" with each letter surrounded by different border fabrics.

The applicant, Fuel Industries Inc., a corporation of Canada, having an address of

100-7 Hinton Avenue

North Ottawa, Ontario K1Y4P1

Canada

requests registration of the trademark/service mark identified above in the United States Patent and Trademark Office on the Principal Register established by the Act of July 5, 1946 (15 U.S.C. Section 1051 et seq.), as amended, for the following:

International Class 009: Multimedia software for digital content creation of entertainment videos using electronic media or information via the Internet; multimedia software for digital video recording, editing and playback of videos; multimedia software for digital recording, editing and playback of entertainment videos; computer software applications for use in electronic transmission of videos, text, images, and other visual works for use with computers, computer peripherals, wireless devices, and cellular and mobile telephones; downloadable software for digital recording, editing and playback of entertainment videos

Intent to Use: The applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the identified goods and/or services. (15 U.S.C. Section 1051(b)).

The applicant's current Attorney Information:

Jeffrey K. Joyner of Greenberg Traurig, LLP

1840 Century Park East, Suite 1900

Los Angeles, California 90067

United States

The attorney docket/reference number is 136252-012100.

The applicant hereby appoints Jeffrey K. Joyner of Greenberg Traurig, LLP

1840 Century Park East, Suite 1900

Los Angeles California 90067

United States

as applicant's representative upon whom notice or process in the proceedings affecting the mark may be served.

The applicant's current Correspondence Information:

Jeffrey K. Joyner
Greenberg Traurig, LLP
1840 Century Park East, Suite 1900
Los Angeles, California 90067
(310) 586-7700(phone)
(310) 586-0564(fax)
gtipmail@gtlaw.com;linkerg@gtlaw.com (authorized)

A fee payment in the amount of \$325 has been submitted with the application, representing payment for 1 class(es).

Declaration

The signatory believes that: if the applicant is filing the application under 15 U.S.C. Section 1051(a), the applicant is the owner of the trademark/service mark sought to be registered; the applicant or the applicant's related company or licensee is using the mark in commerce on or in connection with the goods/services in the application, and such use by the applicant's related company or licensee inures to the benefit of the applicant; the specimen(s) shows the mark as used on or in connection with the goods/services in the application; and/or if the applicant filed an application under 15 U.S.C. Section 1051(b), Section 1126(d), and/or Section 1126(e), the applicant is entitled to use the mark in commerce; the applicant has a bona fide intention to use or use through the applicant's related company or licensee the mark in commerce on or in connection with the goods/services in the application. The signatory believes that to the best of the signatory's knowledge and belief, no other person has the right to use the mark in commerce, either in the identical form or in such near resemblance as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion or mistake, or to deceive. The signatory being warned that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. Section 1001, and that such willful false statements and the like may jeopardize the validity of the application or any registration resulting therefrom, declares that all statements made of his/her own knowledge are true and all statements made on information and belief are believed to be true.

Declaration Signature

Signature: Not Provided Date: Not Provided
Signatory's Name: Gerhard Runken
Signatory's Position: VP Property Development
RAM Sale Number: 86388876
RAM Accounting Date: 09/09/2014

Serial Number: 86388876
Internet Transmission Date: Mon Sep 08 22:59:41 EDT 2014
TEAS Stamp: USPTO/BAS-XX.XX.XXX-20140908225941857
531-86388876-500b1b2ed1b3bc7efc264edfada
7f685e9bb1426cfbdb867c8e78df723edf14a-DA

-8175-20140908225733784030



DECLARATION

The undersigned, being hereby warned that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. §1001, and that such willful false statements may jeopardize the validity of the application or any resulting registration, declares that he/she is properly authorized to execute this application on behalf of the applicant; he/she believes the applicant to be the owner of the trademark/service mark sought to be registered, or, if the application is being filed under 15 U.S.C. §1051(b), he/she believes applicant to be entitled to use such mark in commerce; to the best of his/her knowledge and belief no other person, firm, corporation, or association has the right to use the mark in commerce, either in the identical form thereof or in such near resemblance thereto as to be likely, when used on or in connection with the goods/services of such other person, to cause confusion, or to cause mistake, or to deceive; and that all statements made of his/her own knowledge are true; and that all statements made on information and belief are believed to be true.

Fuel Industries Inc.

Dated: August 5, 2014

Signature: _____



Gerhard Runken
VP Property Development

EXHIBIT B



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451
www.uspto.gov

Aug 5, 2015

NOTICE OF PUBLICATION

- | | |
|--------------------------------------|--|
| 1. Serial No.:
86-388,876 | 2. Mark:
BRODDCAST
(STYLIZED/DESIGN) |
| 3. International Class(es):
9 | |
| 4. Publication Date:
Aug 25, 2015 | 5. Applicant:
Fuel Industries Inc. |

The mark of the application identified appears to be entitled to registration. The mark will, in accordance with Section 12(a) of the Trademark Act of 1946, as amended, be published in the *Official Gazette* on the date indicated above for the purpose of opposition by any person who believes he will be damaged by the registration of the mark. If no opposition is filed within the time specified by Section 13(a) of the Statute or by rules 2.101 or 2.102 of the Trademark Rules, the Commissioner of Patents and Trademarks may issue a notice of allowance pursuant to section 13(b) of the Statute.

Copies of the trademark portion of the *Official Gazette* containing the publication of the mark may be obtained from:
The Superintendent of Documents
U.S. Government Printing Office
PO Box 371954
Pittsburgh, PA 15250-7954
Phone: 202-512-1800

By direction of the Commissioner.

Email Address(es):

gtipmail@gtlaw.com
linkerg@gtlaw.com

EXHIBIT C

From: TMOOfficialNotices@USPTO.GOV
Sent: Tuesday, October 20, 2015 00:05 AM
To: gtipmail@gtlaw.com
Cc: linkerg@gtlaw.com
Subject: Official USPTO Notice of Allowance: U.S. Trademark SN 86388876: BRODDCAST (Stylized/Design):
Docket/Reference No. 136252-01210

NOTICE OF ALLOWANCE (NOA)

ISSUE DATE: Oct 20, 2015

Serial Number: 86388876
Mark: BRODDCAST (Stylized/Design)
Docket/Reference Number: 136252-01210

**No opposition was filed for this published application. The issue date of this NOA establishes the due date for the filing of a Statement of Use (SOU) or a Request for Extension of Time to file a Statement of Use (Extension Request).
WARNING: An SOU that meets all legal requirements must be filed before a registration certificate can issue. Please read below for important information regarding the applicant's pending six (6) month deadline.**

SIX (6)-MONTH DEADLINE: Applicant has six (6) MONTHS from the NOA issue date to file either:

- An SOU, if the applicant is using the mark in commerce (required even if the applicant was using the mark at the time of filing the application, if use basis was not specified originally); **OR**
- An Extension Request, if the applicant is not yet using the mark in commerce. If an Extension Request is filed, a new request must be filed every six (6) months until the SOU is filed. The applicant may file a total of five (5) extension requests. **WARNING: An SOU may not be filed more than thirty-six (36) months from when the NOA issued. The deadline for filing is always calculated from the issue date of the NOA.**

How to file SOU and/or Extension Request:

Use the Trademark Electronic Application System (TEAS). Do **NOT** reply to this e-mail, as e-mailed filings will **NOT** be processed. Both the SOU and Extension Request have many legal requirements, including fees and verified statements; therefore, please use the USPTO forms available online at <http://www.uspto.gov/teas/index.html> (under the "INTENT-TO-USE (ITU) FORMS" category) to avoid the possible omission of required information. If you have questions about this notice, please contact the Trademark Assistance Center at 1-800-786-9199.

For information on how to (1) divide an application; (2) delete goods/services (or entire class) with a Section 1(b) basis; or (3) change filing basis, see http://www.uspto.gov/trademarks/basics/MoreInfo_SOU_EXT.jsp.

FAILURE TO FILE A REQUIRED DOCUMENT OUTLINED ABOVE DURING THE APPROPRIATE TIME PERIOD WILL RESULT IN THE ABANDONMENT OF THIS APPLICATION.

REVIEW APPLICATION INFORMATION FOR ACCURACY

If you believe this NOA should not have issued or correction of the information shown below is needed, you must submit a request to the Intent-to-Use Unit. Please use the "Post-Publication Amendment" form under the "POST-PUBLICATION/POST NOTICE OF ALLOWANCE (NOA) FORMS" category, available at <http://www.uspto.gov/teas/index.html>. Do **NOT** reply to this e-mail, as e-mailed filings will NOT be processed.

Serial Number: 86388876
Mark: BRODDCAST (Stylized/Design)
Docket/Reference Number: 136252-01210
Owner: Fuel Industries Inc.
100-7 Hinton Avenue
North Ottawa, Ontario , CANADA K1Y4P1
Correspondence Address: JEFFREY K. JOYNER
GREENBERG TRAURIG, LLP
1840 CENTURY PARK E STE 1900
LOS ANGELES, CA 90067-2121

This application has the following bases, but not necessarily for all listed goods/services:
Section 1(a): NO Section 1(b): YES Section 44(e): NO

GOODS/SERVICES BY INTERNATIONAL CLASS

009 - Multimedia software for digital content creation of entertainment videos using electronic media or information via the Internet; multimedia software for digital video recording, editing and playback of videos; multimedia software for digital recording, editing and playback of entertainment videos; computer software applications for use in electronic transmission of videos, text, images, and other visual works for use with computers, computer peripherals, wireless devices, and cellular and mobile telephones; downloadable software for digital recording, editing and playback of entertainment videos -- FIRST USE DATE: NONE; -- USE IN COMMERCE DATE: NONE

ALL OF THE GOODS/SERVICES IN EACH CLASS ARE LISTED.

Fraudulent statements may result in registration being cancelled: Applicants must ensure that statements made in filings to the USPTO are accurate, as inaccuracies may result in the cancellation of any issued trademark registration. The lack of a bona fide intention to use the mark with ALL goods and/or services listed in an application or the lack of actual use on all goods and/or services for which use is claimed could jeopardize the validity of the registration, possibly resulting in its cancellation.

Additional information: For information on filing and maintenance requirements for U.S. trademark applications and registrations and required fees, please consult the USPTO website at www.uspto.gov or call the Trademark Assistance Center at 1-800-786-9199.

Checking status: To check the status of an application, go to <http://tarr.uspto.gov>. Please check the status of any application at least every three (3) months after the application filing date.

To view this notice and other documents for this application on-line, go to <http://tdr.uspto.gov/search.action?sn=86388876>.

NOTE: This notice will only be available on-line the next business day after receipt of this e-mail.

EXHIBIT D

uspto

UNITED STATES
PATENT AND TRADEMARK OFFICE

About Us

Careers

Contact Us

Patents

Trademarks

Learning and Resources

USPTO > Trademark > TSDR > Trademark Search

TSDR FAQ'S

Trademark Status and Document Retrieval (TSDR) is currently experiencing intermittent technical difficulties and users may be unable to access the database. The problem is being addressed by staff at the USPTO. We sincerely apologize for any inconvenience this may have caused.

Trademark Status & Document Retrieval (TSDR)

SEARCHMULTI-SEARCH

US Serial, Registration, or Reference No.86388876StatusDocuments


Status results found

STATUSDOCUMENTS

DownloadPrint Preview

Generated on: This page was generated by TSDR on 2015-12-08 17:18:32 EST

Mark: BRODDCAST



US Serial Number: 86388876

Application Filing Date: Sep. 08, 2014

Register: Principal

Mark Type: Trademark

Status: Notice of Allowance (NOA) sent (issued) to the applicant. Applicant must file a Statement of Use or Extension Request within six months of the NOA issuance date.

Status Date: Oct. 20, 2015

Publication Date: Aug. 25, 2015

Notice of Allowance Date: Oct. 20, 2015

Mark Information

Goods and Services

Basis Information (Case Level)

Current Owner(s) Information

Attorney/Correspondence Information

Prosecution History

TM Staff and Location Information

Assignment Abstract Of Title Information - Click to Load

Proceedings - Click to Load

Expand All

Download Adobe Reader

If you are the applicant or the applicant's attorney and have questions about this file, please contact the Trademark Assistance Center

http://tsdr.uspto.gov/#caseNumber=86388876&caseSearchType=US_APPLICATION&caseType=DEFAULT&searchType=statusSearch[12/8/2015 2:21:41 PM]